

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

JAMES HARRELL, et al.,)
)
Plaintiffs,)
)
vs.) Case No. 4:14CV479 CDP
)
THE BOEING CO., et al.,)
)
Defendants.)

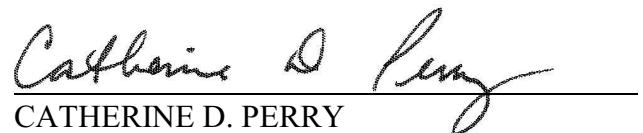
MEMORANDUM AND ORDER

This matter is before me on defendant Union Carbide Corp.’s “motion to have all counterclaims deemed filed and answered pursuant to Fed. R. Civ. P. 5(c)(1)(B),” or alternatively, motion for leave to file counterclaims and answers to counterclaims. Fed. R. Civ. P. 5(c)(1)(B) permits me, in cases such as this, to order that “any crossclaim, counterclaim, avoidance, or affirmative defense in those pleadings and replies to them will be treated as denied or avoided by all other parties.” To the extent defendant’s motion seeks to institute denials under this rule, it will be granted. However, the rule does not permit me to order that counterclaims, affirmative defenses, or crossclaims be deemed filed by each defendant. Therefore, to the extent defendant’s motion seeks to have counterclaims, affirmative defenses, or crossclaims deemed filed, it will be denied. I will grant all defendants leave to file any counterclaim or crossclaim by September 12, 2014. However, any untimely pleading filed beyond that date should be accompanied by the appropriate motion for leave and supporting memorandum as previously explained in my August 12, 2014, Memorandum and Order.

Accordingly,

IT IS HEREBY ORDERED that defendant Union Carbide’s motion [#77] is granted in

part only as follows: this Court will institute denials under Rule 5(c)(1)(B) and order that any crossclaim, counterclaim, avoidance, or affirmative defense in those pleadings and replies to them will be treated as denied or avoided by all other parties; and, all defendants are granted leave to file any counterclaim or crossclaim by **September 12, 2014**. In all other respects, the motion is denied.



CATHERINE D. PERRY
UNITED STATES DISTRICT JUDGE

Dated this 22nd day of August, 2014.